

State Vs. Jahlu

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Court : Himachal Pradesh

Decided On : Sep-15-1952

Reported in : AIR1953HP40

Judge : Chowdhry, J.C.

Acts : [Reformatory Schools Act, 1897](#) - Section 8 and 8(3); ;Reformatory Schools Rules - Rules 3 and 4

Appeal No. : Criminal Reference No. 6 of 1952

Appellant : State

Respondent : Jahlu

Advocate for Pet/Ap. : B. Sita Ram, Govt. Adv.

Disposition : Reference accepted

Judgement :

ORDER

Chowdhry, J.C.

1. This is a reference under Section 438, Criminal P. C. by the District Magistrate of Chamba recommending that the period of detention of the respondent Jahlu in the Reformatory School be extended from 3 to 4 years. The respondent was notified but is absent. The learned Government Advocate has supported the

reference.

2. It appears that Jahlu was convicted on 25-11-1950 under Section 457, read with Section 75, I. P. C., and sentenced to three years' rigorous imprisonment by the then District Magistrate, Chamba. 'The respondent being a youthful offender, the District Magistrate in exercise of powers under Section 29B, Criminal P. C., directed under Section 8, [Reformatory Schools Act, 1897](#), that instead of undergoing the sentence he shall be sent to a Reformatory School for the said period of three years. The age of the youthful offender was found by the District Magistrate to be 14 years.

3. On being moved by the jail authorities the present reference has been made on the ground that under the rules framed by the late Government the respondent should have been sent to the Reformatory School for a period that would expire on his attaining the age of 18 years.

4. The relevant rules framed by the Punjab Government under Section 8 (3) (b), Reformatory Schools Act, and adopted by our Government, regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations are Rules 3 to 5, which are to the following effect:

'3. Every youthful offender sent to a Reformatory School who is found by the Magistrate to be 13 years of age or more at the time of his conviction shall be sent to the School for a period that will expire on his attaining the age of 18 years.

4. Subject to the provisions of Rule 5, every youthful offender sent to a Reformatory School who is found by the Magistrate to be under thirteen years of age at the time of his conviction shall be sent to the School for five years.

5. Every youthful offender who is a member of a criminal tribe proclaimed in the Punjab or elsewhere under the Criminal Tribes Act (27 of 1871) shall, if of eleven years of age or under at the time of the conviction, be sent to a Reformatory School for seven years, and if over eleven years of age for a period that will expire on his attaining the age of eighteen.'

5. As already stated, the District Magistrate found the age of the respondent to be 14 years at the time of his conviction. Under Rule 3 therefore the District Magistrate should have directed that the respondent be sent to the school for a period that would expire on his attaining the age of 18 years, which he failed to do since the period of three years for which he directed him to be sent to school would expire on his attaining the age of only 17 years.

6. The reference is accepted, the sentence of three years' rigorous imprisonment imposed upon the respondent Jahu is enhanced to 4 years and the direction of the District Magistrate under Section 8, Reformatory Schools Act, 1897, is modified so that the respondent shall be kept in the Reformatory School for a period that will expire on his attaining the age of 18 years. Let a copy of this order be sent to the jail authorities concerned.

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